



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/661,633	09/13/2000	Scott J. Daly	KLR 7146.095	7673

55648 7590 05/11/2006

KEVIN L. RUSSELL
CHERNOFF, VILHAUER, MCCLUNG & STENZEL LLP
1600 ODS TOWER
601 SW SECOND AVENUE
PORTLAND, OR 97204

EXAMINER

WERNER, BRIAN P

ART UNIT

PAPER NUMBER

2624

DATE MAILED: 05/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.

09/661,633

Examiner

Brian P. Werner

Applicant(s)

DALY ET AL.

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 19 July 2004 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: _____.
- ☒ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):
Refer to attachment.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

Telephone No.

Art Unit: 2621

ATTACHMENT TO
NOTICE OF NON-COMPLIANT AMENDMENT

1. Prior to receipt of the July 19, 2004 amendment, the claims had been amended once in October 6, 2000, by canceling claim 52 and amending claims 1, 10, 15, 18, 20-23, 26, 30, 31, 32, 37, 38, 49, 54 and 61. Now, in the July 19, 2004 amendment, the following claims statuses are misidentified:

- Claim 2-4, 6, 7, 9, 11, 13, 14, 16, 17, 19, 25, 27-29, 33-36, 39-42, 44-48, 53, 55-60 are identified as “previous presented”, but they are actually - - original - - given that they have never been amended.
- Claim 52 is identified as “previously presented”, but is has been - - cancelled - -.

Correction of the current claim status is required.

2. Given the cancellation of claim 52 in the October 6, 2000 amendment, currently pending claim 58 now depends from a cancelled base claim. Correction is required.

3. A substitute specification was filed on October 6, 2000. However, the PTO file is missing the marked-up copy identifying all changes. A copy of the marked-up substitute specification is requested in response hereto.
4. Applicant had identified this application as a "continuation-in-part" in the papers filed on September 13, 2000. However, in the preliminary amendment filed on October 17, 2002, the specification was amended to claim "priority to ... 09/052,591", without identifying the instant application as a CIP. Is this application a CIP, or a continuation/divisional? The first sentence of the specification should clarify the nature of the priority.
5. An Office Action on the merits will promptly follow the fulfillment of the above requirements.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Werner whose telephone number is 571-272-7401. The examiner can normally be reached on M-F, 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew C. Bella can be reached on (571) 272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Brian Werner
Primary Examiner
Division 2624



BRIAN WERNER
PRIMARY EXAMINER